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Notice of Allowability	Application No.	Applicant(s)	
	10/604,635	SMITH, WAYNE J.	
	Examiner	Art Unit	
	Shelley Self	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/22/05.
2. ☒ The allowed claim(s) is/are 1-4 and 8-16.
3. ☒ The drawings filed on 07 February 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
|--|---|


DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

DETAILED ACTION

Response to Amendment

The amendment filed on April 22, 2005 is sufficient to overcome the prior reference. The previous Office Action indicated, the originally presented claims to be rejected by a Double Patent Rejection with regard to U.S. Pat. No. 6,604,561, this was a typographical error, the U.S. Pat. No. should be 6,604,562. The Examiner has approved the Terminal Disclaimer received February 7, 2005.

Drawings

The drawings received on February 7, 2005. These drawings are approved.

EXAMINER'S AMENDMENT

An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

-Claim 1, lines 4-5, following the terms, for supporting the detachable head, "*for*" second occurrence; has been deleted to eliminate duplication.

Allowable Subject Matter

Claims 1-4 and 8-16 are allowed.

The following is an Examiner's statement of reasons for allowance: The prior art of record does not disclose or fairly suggest a tree pusher comprising means mounted on the base for supporting the detachable head, for attaching the detachable head to the tree, and *for separating the detachable head from the rest of the tree pusher as the tree falls, so that the detachable head remains attached to the tree as the tree falls* in combination with the rest of the claimed limitations as set forth in claims 1, 2, and 11.

The prior art reference, Atherton et al. discloses a tree pusher comprising several cylindrical tubes (fig. 2) wherein a detachable prong head (fig. 4) is attached to the top most cylindrical tube (74) via a set screw (76) for pushing a tree as the tree is felled. Although Atherton discloses the pronged head (30; fig. 4) to be detachable from the tube (74), Atherton does not disclose or fairly suggest means mounted *for separating the detachable head from the rest of the tree pusher as the tree falls, so that the detachable head remains attached to the tree as the tree falls* as set for the claims.

As set forth or invoked by 35 U.S.C. 112 6th paragraph, Atherton fails to disclose or fairly suggest equivalent structure *for separating the detachable head from the rest of the tree pusher as the tree falls*, instead, Atherton sets forth a cylindrical pronged head (30) that is attachable to a or coupled to a cylindrical tube (74) via a set screw (76) such that the set screw limits movement of the pronged head (30) as it relates to the tube (74) allowing the head (30) to remain coupled/attached to the tube (74) as the tree falls. Accordingly, Atherton neither anticipates nor renders obvious the claimed invention as set forth in claims 1, 2, and 11.

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Neither the prior art of record nor any combination thereof discloses the claimed invention as set forth in claims 1, 2, and 11, thus the claims and their dependents are allowable over the prior art of record.

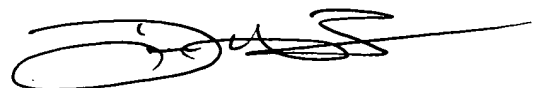
Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf
July 7, 2005



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